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| Examiner Thomas Ho | USPTO | 703-305-4556 | 703-746-3366 |
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From: David R. Deal

Date: 09/15/2003

Message: Examiner Ho-

Attached please find a proposed Amendment and Response for U.S.
applications 09/821,932 and 10/032,872.

I will call you at 2 pm.

Thank you-

David Deal

Atty/Client/Matter No.: 2842/26422/20650

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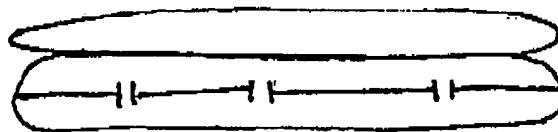
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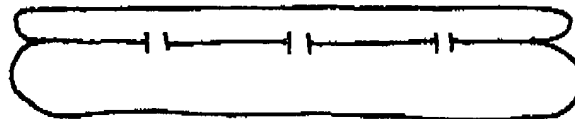
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1. Boyd modified as suggested by Saltness to maintain shape upon inflation:

gives:



not:



The modification taught by Saltness does not result in the claimed device.

2. In the alternative, Saltness is cited to provide a fluid communication channel between compartments. The examiner states that the fluid communication channel in Saltness allows air to flow from one compartment to the next. This is a statement concerning what the channel does as opposed to why this is desirable. In other words, why would a person take the device of Boyd and create a fluid communication channel between the compartments? Absent some motivation for the change, the suggested modification can only be based upon hindsight.

3. Boyd is a waterbed mattress and the presently claimed invention is an air bed mattress. Both mattresses have first and second compartments. The examiner points out that the Boyd mattress could be filled with air. The similarities between the two mattresses ends at this point. In Boyd, the upper compartment serves a different purpose than the upper compartment in the current application. The upper compartment of Boyd provides an insulating layer, a feel adjustment mechanism, and an adjustable zone mechanism. The upper compartment of the current

application allows the sleep surface to imitate the feel of a traditional mattress. Creating a fluid communication channel in Boyd would prevent it from providing the functions it was designed to provide. The examiner has rejected the argument in support of the insulation feature of the bed. Even if Boyd is used as an air mattress, the feel of the bed could still be easily adjusted and different zones could be created.

If a user wanted a firmer surface to sleep on, the upper compartment of Boyd could be inflated to the desired pressure and volume. This would be easier than adjusting the pressure and entire volume of the first and second compartments that would be required if a fluid communication channel was created between the two compartments.

Column 3, lines 31-37 of Boyd discusses the adjustable zones function shown in Fig. 5. A user could create a firmer region in the lumbar area of Boyd by adding air to that portion of the upper compartment. This would not be possible with a fluid communication channel between the two compartments.

When a suggested modification would prevent a device from functioning as intended, one of ordinary skill in the art would not be motivated to make that modification.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

| | | | |
|-----------------|------------------------------|-------------------|-------------|
| Application of: | Boyd | Group No.: | 3677 |
| Serial No.: | 09/821,932 | Atty. Docket No.: | 26422/25020 |
| Filed: | 03/30/2001 | | |
| For: | Air mattress with pillow top | Examiner: | Ho |

Commissioner of Patents and Trademarks

Washington, DC 20231

Proposed

AMENDMENT D AND RESPONSE

HONORABLE SIR:

Responsive to the official communication of June 19, 2003, Applicant submits the following Amendments and Remarks.

It is not believed that extensions of time are required beyond those which may otherwise be provided for in documents accompanying this Amendment. However, in the event that additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned for under 37 C.F.R. § 1.136(a), and any fees required therefore are hereby authorized to be charged to our Deposit Account 20-0823.

Please amend the above-identified application as set forth below.